



ANDA 203189

Hi-Tech Pharmacal Co., Inc.  
Attention: Joanne Curri  
Director, Regulatory Affairs  
369 Bayview Avenue  
Amityville, NY 11701

Dear Madam:

This is in reference to your abbreviated new drug application (ANDA) dated May 26, 2011, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (the Act), for Gatifloxacin Ophthalmic Solution, 0.5%.

Reference is also made to the Complete Response letter issued by this office on June 26, 2013, and to your amendment dated August 14, 2013. In addition, we acknowledge receipt of your correspondences dated February 4 and March 17, 2014, addressing the patent issues associated with this ANDA.

We have completed the review of this ANDA and have concluded that adequate information has been presented to demonstrate that the drug is safe and effective for use as recommended in the submitted labeling. Accordingly the ANDA is approved, effective on the date of this letter. The Division of Bioequivalence has determined your Gatifloxacin Ophthalmic Solution, 0.5%, to be bioequivalent and, therefore, therapeutically equivalent to the reference listed drug (RLD), Zymaxid Ophthalmic Solution, 0.5%, of Allergan, Inc. (Allergan).

The RLD upon which you have based your ANDA, Allergan's Zymaxid Ophthalmic Solution, 0.5%, is subject to periods of patent protection. As noted in the agency's publication titled Approved Drug Products with Therapeutic Equivalence Evaluations (the "Orange Book"), U.S. Patent Nos. 5,880,283 (the '283 patent) and 6,333,045 (the '045 patent) are scheduled to expire (with pediatric exclusivity added) on June 5, 2016, and February 20, 2020, respectively.

Your ANDA contains paragraph IV certifications under section 505(j)(2)(A)(vii)(IV) of the Act stating that each patent is invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Gatifloxacin Ophthalmic Solution, 0.5%, under this ANDA. You have notified the agency that Hi-Tech Pharmacal Co., Inc. (Hi-Tech) complied with the requirements of section 505(j)(2)(B) of the Act, and that litigation was initiated against Hi-Tech for infringement of the '283 and '045 patents within the statutory 45-day period in the United States District Court for the District of New Jersey [Senju Pharmaceutical Co., Ltd., Kyron Pharmaceutical Co., Ltd., and Allergan, Inc. V. Hi-Tech Pharmacal Co., Inc., Civil Action No. 1:11-cv-00271]. You have

also notified the agency that the litigation was dismissed with respect to the '283 patent and judgment was entered in favor of Hi-Tech with respect to the '045 patent.

Under section 506A of the Act, certain changes in the conditions described in this ANDA require an approved supplemental application before the change may be made.

Please note that if FDA requires a Risk Evaluation & Mitigation Strategy (REMS) for a listed drug, an ANDA citing that listed drug also will be required to have a REMS. See section 505-1(i) of the Act.

Postmarketing reporting requirements for this ANDA are set forth in 21 CFR 314.80-81 and 314.98. The Office of Generic Drugs should be advised of any change in the marketing status of this drug.

Promotional materials may be submitted to FDA for comment prior to publication or dissemination. Please note that these submissions are voluntary. If you desire comments on proposed launch promotional materials with respect to compliance with applicable regulatory requirements, we recommend you submit, in draft or mock-up form, two copies of both the promotional materials and package insert directly to:

Food and Drug Administration  
Center for Drug Evaluation and Research  
Office of Prescription Drug Promotion  
5901-B Ammendale Road  
Beltsville, MD 20705

We call your attention to 21 CFR 314.81(b)(3) which requires that all promotional materials be submitted to the Office of Prescription Drug Promotion with a completed Form FDA 2253 at the time of their initial use.

The Generic Drug User Fee Amendments of 2012 (GDUFA)(Public Law 112-144, Title III) established certain provisions with respect to self-identification of facilities and payment of annual facility fees. Your ANDA identifies at least one facility that is subject to the self-identification requirement and payment of an annual facility fee. Self-identification must occur by June 1 of each year for the next fiscal year. Facility fees must be paid each year by the date specified in the Federal Register notice announcing facility fee amounts. All finished dosage forms (FDFs) or active pharmaceutical ingredients (APIs) manufactured in a facility that has not met its obligations to self-identify or to pay fees when they are due will be deemed misbranded. This means that it will be a violation of federal law to ship these products in interstate commerce or to import them into the United States. Such violations can result in prosecution of those responsible, injunctions, or seizures of misbranded products. Products misbranded because of failure to self-identify or pay facility fees are subject to being denied entry into the United States.

As soon as possible, but no later than 14 days from the date of this letter, submit, using the FDA automated drug registration and listing system (eLIST), the content of labeling [21 CFR

314.50(l)] in structured product labeling (SPL) format, as described at <http://www.fda.gov/ForIndustry/DataStandards/StructuredProductLabeling/default.htm>, that is identical in content to the approved labeling (including the package insert, and any patient package insert and/or Medication Guide that may be required). Information on submitting SPL files using eLIST may be found in the guidance for industry titled “SPL Standard for Content of Labeling Technical Qs and As” at <http://www.fda.gov/downloads/DrugsGuidanceComplianceRegulatoryInformation/Guidances/UCM072392.pdf>. The SPL will be accessible via publicly available labeling repositories.

Sincerely yours,

*{See appended electronic signature page}*

CAPT Jason J.Y. Woo, M.D., M.P.H.  
Acting Director, Office of Regulatory Operations  
Office of Generic Drugs  
Center for Drug Evaluation and Research

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**This is a representation of an electronic record that was signed electronically and this page is the manifestation of the electronic signature.**  
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/s/  
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ROBERT L WEST

09/03/2014

Associate Director for Review Quality, for  
Jason Woo, M.D., M.P.H.